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102D CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPORT
102-376

SENSE OF THE HOUSE OF REPRESENTATIVES WITH RESPECT TO LEGISLATION RELATING TO THE AMORTIZATION OF GOODWILL

NOVEMBER 25, 1991.—Referred to the House Calendar and ordered to be printed

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Mr. ROSTENKOWSKI, from the Committee on Ways and Means, submitted the following

REPORT

[To accompany H. Res. 292]

The Committee on Ways and Means, to whom was referred the resolution (H. Res. 292) expressing the sense of the House of Representatives with respect to legislation relating to the amortization of goodwill and certain other intangibles, having considered the same, report favorably thereon without amendment and recommend that the resolution do pass.

PRESENT LAW

In determining taxable income for Federal income tax purposes, a taxpayer is allowed depreciation or amortization deductions for the cost or other basis of intangible property that is used in a trade or business or held for the production of income if the property has a limited useful life that may be determined with reasonable accuracy. No depreciation or amortization deductions are allowed with respect to goodwill or going concern value.

LEGISLATIVE BACKGROUND

The Federal income tax treatment of intangible assets has been a source of considerable controversy between taxpayers and the Internal Revenue Service. Legal and factual disputes arise as to the existence of particular intangible assets distinct from goodwill or going concern value, and as to the proper method of amortizing such assets. In addition, when a trade or business is acquired, the amount of the purchase price that is attributable to particular intangible assets may also be disputed.

59-008

H783-29

On July 25, 1991, Chairman Rostenkowski introduced H.R. 3035, a bill to simplify the Federal income tax treatment of intangible assets. The bill would require the cost of most acquired intangible assets, including goodwill and going concern value, to be amortized ratably over a 14-year period. Under the bill, certain intangible assets that are not amortizable under present law would be amortizable over 14 years. Other intangible assets that are currently amortizable over longer or shorter periods would also be subject to 14-year amortization.

H.R. 3035 by its terms would apply only prospectively, to property acquired after the date of enactment of the bill. Since the introduction of the bill, concern has been expressed that there may be situations where business transactions are being held up because of uncertainty as to when any final legislation might be enacted.

EXPLANATION OF PROVISION

A resolution is adopted in the form of H. Res. 292, introduced by Chairman Rostenkowski on November 22, 1991. This is a resolution expressing the sense of the House of Representatives that any legislation enacted with respect to the amortization of goodwill and certain other intangibles for Federal income tax purposes should contain a provision permitting taxpayers to elect in a consistent manner the provisions of such legislation with respect to transactions after the date on which H.R. 3035 of the 102nd Congress was introduced and before the otherwise prescribed effective date of such legislation.